

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

IN RE: BAIR HUGGER FORCED AIR      MDL No.: 15-md-02666 (JNE/FLN)  
WARMING PRODUCT LIABILITY  
LITIGATION

This Document Relates To:

MIKE MOORE,

Civil Action No.: 17-CV-02901-JNE-FLN

Plaintiff,

---

**PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

NOW COMES Plaintiff, Mike Moore, identified in Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1272], and by and through undersigned counsel submits this, his Response to Defendants' Motion to Dismiss, and would respectively show the Court the following:

1. In July of 2015, Mr. Mike Moore contacted undersigned counsel regarding an infection and subsequent treatment that he experienced due to the use of a Bair Hugger patient warming device during an orthopedic surgery.
2. Counsel worked to obtain medical records and billing records to move forward with the case. Those records indicated that a Bair Hugger device was used during the original surgery.
3. On July 14, 2017, counsel filed the current action to comply with what was identified as the applicable statute of limitations deadline for the relevant claim.

4. Efforts to have Mr. Moore complete the Plaintiff Fact Sheet have been complicated by the inability to contact the client.
5. On June 13, 2018, Counsel received a phone call from Plaintiff's daughter informing Counsel that Plaintiff recently died.
6. As a result, Counsel will require additional time to contact the appropriate heir to determine whether the heir would like to pursue Plaintiff's case.

Accordingly, undersigned counsel request that the current action not be dismissed with prejudice and an additional ninety (90) days be given to allow time for Counsel to contact Plaintiff's heirs to determine how to proceed with this matter and provide the necessary information to cure any alleged deficiencies with the Plaintiff Fact Sheet and to continue the case.

Dated: June 14, 2018

KENNEDY HODGES, LLP

By: /s/ David W. Hodges  
David W. Hodges  
dhodges@kennedyhodges.com  
Gabriel A. Assaad  
gassaad@kennedyhodges.com  
4409 Montrose Blvd. Ste 200  
Houston, TX 77006  
Telephone: (713) 523-0001  
Facsimile: (713) 523-1116

ATTORNEYS FOR PLAINTIFF